

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7284 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PRAJAPATI NATARLAL PARSHOTTAMDAS

Versus

OIL AND NATURAL GAS CORPN LTD

Appearance:

MS SONAL D VYAS for Petitioner
MR RAJNI H MEHTA for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 01/10/1999

ORAL JUDGEMENT

Rule. Service of rule is waived by Shri
R.H.Mehta.

This petition is by a candidate who was trained apprentice at technical training institute administered by ONGC Ltd., the respondent. She claims to be a member of other backward classes. The community to which he belongs was included OBC only in 1995. The petitioner

has undergone training in 1991. According to the petitioner, being the senior most ITI trained candidate, she was entitled to be considered on preferential basis for offering appointment as junior technical assistant in pursuance of memorandum dated 6th August 1999 in view of criterion laid down by the Supreme Court in the case of U.P. State Road Transport Corporation and another v/s U.P. Parivahan Nigam Shishukhs Berozgar Sangh and others [[1995]2 SCC 1]. She has been excluded from consideration by considering her to be over age. Apart from other contentions which need not to be considered in this petition, the petitioner urges that, according to that memorandum, the age for OBC candidates is shown to 31 years and it also goes to show relaxation in the age is to be given to the extent of apprenticeship training. On the criterion, the petitioner remains to be within age. The fact that the persons trained as apprentice are to be considered for preferential appointment over the direct recruits by the respondents and that a person trained earlier has to be considered senior to persons trained later for the purpose of determining preference amongst the trained apprentices and also that the period of training is the period by which the age relaxation can be granted, has urged in reply affidavit that, as on the record of the institute, it was not known that the petitioner belongs to OBC and could not have been known because the petitioner's community was included in OBC only in 1995 after she cleared her training course, there was no material on the basis of which, the respondents could have considered the petitioner as member of OBC and given the benefit of age relaxation on that basis. Therefore, there cannot be faulted with by not calling the petitioner for interview for giving the appointments on the basis of aforesaid decision. However, the fact that the petitioner belongs to OBC category candidate as on the date of memorandum as per the material furnished in the petition, is not disputed. It is also not a matter of contest that eligibility as at the time of issuing memorandum envisaging filling vacancies in reservation, and had the respondents known about petitioner's status as member of OBC, her case would have been considered.

3. The recruitment in pursuance of memorandum dated 6/8/99 is not completed as the same was stayed by this Court vide orders made in Special Civil Application No.6434/99, and it is admitted that the vacancies are still unfilled for which the persons are awaiting appointments and on admitted facts, the petitioner was eligible to be considered for appointment on preferential basis, though he has been excluded from such

consideration for no fault of either of the parties.

4. I deem it proper to dispose of this petition by directing the respondents to consider the case of the petitioner as OBC candidate and finalize the same in accordance with the guidelines stated by the Supreme Court in the aforesaid decision.

Rule made absolute accordingly. No orders as to costs.

parmar*